

REMARKS

Claims 14-18, 20, 22 and 30-33 are pending in the application.

Claims 19, 21 and 23-29 have been canceled. Claims 14-18 are deemed to be allowable by the Examiner. Claim 23-24, 30 and 33 have been objected to by the Examiner, but are deemed to be allowable if rewritten in independent form. Claim 33 has been amended to be rewritten in independent form and so is now in a condition for allowance. Claims 20, 22 and 30-32 have been amended so as to depend from allowable, rewritten claim 33. Support for the amendments may be found in throughout the specification and in the canceled claims.

The Examiner has raised new rejections of claims 19-22 and 25 under 35 U.S.C. §102(e) based on U.S. Patent No. 6,739,673 B2 of Gupta et al. ("Gupta") and of claims 26-28 and 31-32 under 35 U.S.C. §103(a) also based on Gupta.

It is noted that while the Examiner's cover page indicates that claim 29 is listed among the claims that are "rejected," and this claim is not listed anywhere in the office action as being either in condition for allowance or objected to as being in dependent form, the Examiner's substantive rejections under §§102(e) and 103(a) do not indicate that either of them is specifically applied to claim 29. Applicants have proceed upon the assumption that claim 29 was rejected under either or both of the Examiner's Gupta rejections. As a result, and in view of applicants' cancellation of this claim, as well as some of its dependent claims, to the extent the office action is defective in this regard, the issue is effectively rendered moot. If, however, the Examiner erred in listing claim 29 as rejected, and intended to list claim 29 as either allowed or object to as being in dependent form, the Examiner is requested to immediately contact the undersigned in order to take steps to add claim 29 back into the application by subsequent amendment instead of having to pursue this claim, should applicants proceed to do so, through the filing of a continuation application.

Applicants gratefully acknowledge the Examiner's withdraw of the prior rejections based on U.S. Patent Publication 2004/0021342 A1 of Fujimoto.

While the applicants do not believe that the canceled claims are unpatentable under the statutory grounds raised by the Examiner based on Gupta, to expedite prosecution and to move toward a notice of allowance for those claims already approved of, applicants have herein canceled claims 19, 21, and 23-29. The remaining, pending claims that were subject to rejection

Application No.: 10/748,401

Reply to Office Action of February 17, 2006

now depend from an allowed base claim (claim 33) such that the rejection no longer applies to any of the pending claims.

In view of the foregoing, Applicants submit that the pending claims 14-18, 20, 22 and 30-33 are in condition for allowance as acknowledged by the Examiner in the Office Action.

•Withdrawal of the rejection and a Notice of Allowance are respectfully requested.

Respectfully submitted,

JOHN C. MONTAGNA ET AL.

Aug 12, 2006
(Date)

By:



LYNDA L. CALDERONE

Registration No. 35,837

FLASTER/GREENBERG P.C.

8 Penn Center

1628 John F. Kennedy Blvd., 15th Floor

Philadelphia, PA 19103

Telephone: (215) 279-3030

Direct Dial: (215) 279-9375 or (856) 382-2206

Facsimile: (856) 661-1919

E-Mail: lynda.calderone@flastergreenberg.com

LLC:llc

Enclosures: RCE request; Petition for Extension of Time of three months in duplicate; IDS and SB/08A form